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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,453	10/02/2003	Joseph S. Stam	AUTO 707-C7	9026
28167	7590	08/13/2004	EXAMINER	
BRIAN J. REES GENTEX CORPORATION 600 NORTH CENTENNIAL STREET ZEELAND, MI 49464			LUU, THANH X	
			ART UNIT	PAPER NUMBER
			2878	

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/677,453	<b>Applicant(s)</b> STAM ET AL.	
	<b>Examiner</b> Thanh X Luu	<b>Art Unit</b> 2878	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 and 17-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                               | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>02/2004</u> . | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of claims 13-16 in Paper No. 06/10/2004 is acknowledged. The traversal is on the ground(s) that the claims are not distinct. This is not found persuasive because, for instance, an undim counter (in claim 3) is not required in claim 13. Furthermore, since a search for an undim counter would not yield results for a 240 fps imager, the search is burdensome.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 13-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It appears that the specification fails to disclose an embodiment in which images are acquired at a rate greater than or equal to 240 frames per second. Examiner notes that 240 Hz does not have the same meaning as 240 frames per second.

Examiner further reminds Applicant that since new matter is included in this present application, Applicant's claims to priority (through Continuations) are invalid and

the priority for the instant application should be appropriately changed to a Continuation-In-Part (CIP).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Breed et al. (U.S. Patent 6,324,453).

Regarding claims 13 and 14, Breed et al. disclose (see Fig. 8) a device, comprising: an image array sensor (811) and a controller (120) configured to acquire images at a rate greater than 240 frames per second (see col. 22, lines 1-5; col. 26, lines 27-35) and the controller is further configured to generate an exterior light control signal as a function of the images (see col. 33). Breed et al. also disclose (see col. 22, lines 1-10) the images comprise fewer than a total number of pixels within the image sensor array.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Breed et al. in view of Waldman et al. (U.S. Patent 5,764,163).

Regarding claim 15, Breed et al. disclose the claimed invention as set forth above. Breed et al. do not specifically disclose identifying an AC powered light source. Waldman et al. teach (see col. 7, line 60-col. 8 line 20) identifying and distinguishing between vehicle lights, other artificial lights (AC powered) and ambient light. Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide such a feature in the apparatus of Breed et al. to more accurately detect and distinguish potential light sources.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Breed et al. in view of Matsumoto et al. (U.S. Patent 4,891,559).


Regarding claim 16, Breed et al. disclose the claimed invention as set forth above. Breed et al. do not specifically disclose distinguishing between a stationary light source from an oncoming head lamp. Matsumoto et al. teach (see Fig. 3 and 4) a similar device in which stationary light sources (reflections) are distinguished from an oncoming head lamp. Matsumoto et al. further recognize that such a feature allows for more accurate detection of head lamps and control of an exterior light. Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide such a feature in the apparatus of Breed et al. to more accurately detect head lamps and improve the operation of the device.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh X Luu whose telephone number is (571) 272-2441. The examiner can normally be reached on M-F (6:30-4:00) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Thanh X Luu  
Primary Examiner  
Art Unit 2878